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July 3, 2006

Daniel J. Hart
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103-4797

Re: Gorbey, et al. v. Longwill, et al.

Dear Mr. Hart:

I have reviewed the Police Report, records from EMS, fire company, Alfred I. Dupont Institute and Chief Medical Examiner, and the report of Dr. I. C. Hood with respect to the above named case.

Complaint

On 08/30/02 Marissa Fishman was an infant who proceeded unattended to an indoor pool. The infant apparently fell into the pool and drowned.

Talleyville Fire Company EMS Report

A one-year old infant was found at the bottom of a pool. CPR had been begun by laymen.

New Castle County EMS Report

A one-year old female was found face down in the swimming pool by her mother. The patient was pulled from the pool and bystander CPR initiated. An EKG showed asystole, and attempts at resuscitation were unsuccessful.

Records of Alfred E. Dupont Institute

This 18-month old female child was admitted on 08/30/02 asystolic and not breathing. Resuscitation attempts led to the return of the pulse about 35 minutes after cardiac arrest, although mechanical ventilation and the use of dopamine for blood pressure support

remained. The infant developed worsening respiratory acidosis and bilateral effusions. Multiple episodes of bradycardia required initiation of CPR and the administration of a variety of drugs. Disseminated intravascular coagulation was treated with fresh frozen plasma, cryoprecipitate and packed red blood cell transfusions. The patient's condition continued to deteriorate and she died on 08/03/02.

Certificate of Death

The immediate cause of death was listed as drowning.

Report of Dr. Ian Hood (01/24/06)

Dr. Hood is a forensic pathologist who reviews the events surrounding the accident and the infant's subsequent clinical course. He describes asphyxial drowning, "dry" drowning and secondary cardiac dysrhythmia. He notes that infants are more resistant to hypoxia than adults and that "very few victims of drowning seem to have been able to summon assistance." He then discusses pain and distress of a 20-month old infant and states that "there was no reason to indicate that Marissa would not have been as frantic and panic stricken as any conscious individual in the same circumstances." He concludes that the infant probably suffered 1-2 minutes of extreme air hunger and that she experienced pain, suffering, panic and terror.

Comment

In summary this is the case of a 1-1/2 year old infant who fell into a swimming pool and drowned. Dr. Hood is correct in his description of the physiology of drowning, but his comments on the emotional reactions of an infant to drowning are far beyond the training or experience of a pathologist. Having supervised the training of numerous pathologists as chairman of pathology departments at three medical schools, I can state with certainty that there is nothing in the residency training program that permits such speculation. The training of a forensic pathologist after residency does not include courses in psychiatry, neurology or neuroscience. Thus I can state with reasonable medical certainty that considerations of pain, suffering, panic and terror are far beyond the province of a pathologist. Please feel free to call upon me for any further information.

Sincerely,

A handwritten signature in cursive script, reading "Emanuel Rubin". The signature is written in dark ink and is positioned above the printed name.

Emanuel Rubin, M.D.